

**DETAILED ACTION**

**Final Rejection**

***Response to Amendment & Arguments***

1. The instant Examiner has reviewed the previous Office actions & Remarks.
2. The most recent claim amendments fail to patentably distinguish over the prior art relied upon for the following reasons:

Firstly, Applicant argues:

“Walker does not teach or suggest:

- a) receiving activity data associated with an activity by the patron of said gaming establishment, wherein the activity data does not include identification information or account information for the patron;
- b) determining based on the activity data that the patron has begun an activity for which loyalty points are to be accrued without receiving the identification information or account information for the patron;
- c) determining, based on the activity data and one or more other factors, an accrual rate for accruing loyalty points for the patron; and
- d) accruing the loyalty points, based on the accrual rate, for the patron during the activity without receiving identification information or account information for the patron.”

This language appears in claims 15, 36, 105 & 106.

Respectfully, Applicant appears to be misinterpreting a portion of the Office action, where it is written:

"Walker does not teach implementing the system in a mechanism or automatically determining that the patron has begun an activity for which player-tracking points accrue. Walker discloses the dealer to be pressing buttons to award players with frequent flyer miles in response to player gaming. Pressing buttons is a manual activity (see column 4 lines 23-36). However, MPEP 2142 III provides that automation of a manual task is not sufficient to distinguish over the prior art (MPEP 2142 III). **It would therefore be obvious to automate the button pressing with means to automatically determine that a patron has begun an activity and the automatic accrual of points to standardize the awards for all players independent of the dealer.**"

The Office action acknowledged that Walker did not teach a portion of steps a) through d) recited above; instead pointing out that this is a matter of automation of a manual activity.

With respect to the limitations in steps a) through d) that require not receiving identifying or account information, this was addressed in the previous Office action as well:

"The Applicant is using different definitions of the word "identifying". The Examiner has read the present application to define "identifying" as awarding points of some nature to an individual who is not identified by name, address, bank account number or similar. However, assigning a number to a player is not identifying a player in this way. While it allows a casino distinguish one player from another, this information will certainly not lead to the player's identity. By the definition of "identifying" used herein

by the Applicant, merely redeeming points would be receiving identification information and would render the claims indefinite under 35 U.S.C. 112. No rejection has been made here as the Examiner's has used the definition he has understood from the specification for "identifying".

Next, Applicant argues:

"Walker does not teach or suggest: issuing to the patron a loyalty program instrument designed or configured to store the awarded loyalty points without the identification information or account information for the patron in manner in which the awarded loyalty points can be redeemed by the patron without receiving the identification information or account information for the patron, thereby allowing the patron to redeem the loyalty points anonymously without revealing his or her identification information or account information."

Yet, a review of Applicant's Specification indicates that the basic issue is not about maintaining privacy and confidentiality as Applicant appears to be suggesting in both the claim amendments & Remarks. (See also Specification Page 6, Lines 18-22). Instead, this case is about automatically initiating player tracking (automatically accumulating loyalty points) without requiring a player tracking session be initiated by a patron. As explained above, MPEP 2142 III provides that automation of a manual task is not sufficient to distinguish over the prior art. "Because players can begin to accrue loyalty points without first triggering the system with a loyalty point initiation event, the gaming machine and casino network need not recognize who is playing" (Specification

Page 6, Lines 28-31). Thus, this is a matter of ensuring that play is tracked, not about keeping a user identity anonymous.

Applicant goes on to argue: "In fact, *Walker teaches* away from this claimed feature because it teaches awarding frequent flyer miles which cannot possibly be redeemed in an anonymous manner (i.e., identification information or frequent mile account information has to be provided)."

Yet, Applicant's Specification discloses redemption of points for tangible awards such as "rooms, drinks, meals, etc." "Loyalty points may be credited to the patron's player tracking account using at least one of a phone, gaming machine, a clerk validation terminal..." (Specification Page 8, Lines 7-10, Page 9, Lines 31-32 & Page 10, Lines 1-2). To the extent Applicant argues that frequent flyer miles cannot be redeemed anonymously, neither can hotel rooms. Nor for that matter can crediting points with the assistance of a clerk be accomplished without revealing identity.

3. Finally, the claims have been amended to recite a computer-implemented method. Certainly, Walker teaches such a computer implemented method, (Figure 1) & additionally, MPEP 2142 III & *In re Venner*, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958) allows for automation of a manual activity.

4. Thus, Examiner cannot agree with Applicant's arguments, and all claims are respectfully rejected.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

**Claims 15-22, 24-41, 44-46, 48-53, 55 & 104-106 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker (US Patent Number 6,379,247).**

**Claims 15, 105 & 106:**

Walker teaches a method for awarding player-tracking points to patrons of a gaming establishment. (Abstract & Title) The dealer determines when the patron has begun an activity for which player tracking points/comps are accrued and accrues the points to the player without the player initiating a player tracking session. (Fig 10a) The player is awarded the accrued points (Fig 10b, 1038) that are issued to the player. (Fig 10b, 1036, 1038) Fig 10a shows that the player tracking points accrue without receiving player tracking information (identification information, account information, or a combination thereof) from the player. Walker discloses awarding players without receiving identification information or account information (see column 8 lines 19-21).

Walker does not teach implementing the system by automatically determining that the patron has begun an activity for which player-tracking points accrue. This is a manual task left to the dealer. Walker discloses the dealer to be pressing buttons to award players with frequent flyer miles in response to player gaming. Pressing buttons

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is a manual activity (see column 4 lines 23-36). However, MPEP 2142 III provides that automation of a manual task is not sufficient to distinguish the prior art (MPEP 2142 III). It would therefore be obvious to automate the button pressing with means to automatically determine that a patron has begun an activity and the automatic accrual of points to standardize the awards for all players independent of the dealer.

Walker further discloses issuing to the patron a loyalty program instrument designed to store awarded loyalty points. Walker teaches that the loyalty point instrument is a printed ticket. (Col 5, 28-32)

Walker discloses awarding players without receiving identification information or account information (see column 8 lines 19-21).

**Claim 16:**

Walker teaches that the gaming establishment is a casino. (Title)

**Claim 17:**

Walker teaches that the gaming entity has a plurality of venues - i.e., gaming tables (112).

**Claim 18:**

Walker teaches using a gaming machine in a gaming establishment (column 3 lines 50-53). Tables, incorporating the system described by Walker, with the broadest reasonable interpretation, are machines.

**Claim 19:**

Walker teaches that the player may receive player tracking points for playing "blackjack, craps, roulette, poker, and the like." (Col 3, 50-52) These are games of chance.

**Claim 20:**

Walker teaches that the activity for which a patron may receive player-tracking points is an entertainment purchase - i.e., gambling. Gambling is entertainment.

**Claims 21 & 22:**

Walker teaches that the activity for which player-tracking points accrue (playing a gambling game) occurs in a venue within, and therefore, affiliated with, the gaming establishment - i.e. gaming table (112).

**Claim 24:**

Walker teaches that the loyalty points stored on the loyalty instrument are redeemable for comps. (Col 12, 55-67).

**Claim 25:**

Walker teaches that the rate at which the patron accrues loyalty points varies according to the amount wagered. (Col 4, 39-65)

**Claims 26 & 27:**

Walker's Fig 10a shows that the player tracking points begin accruing without receiving player tracking information or a player tracking card from the player.

**Claims 28 & 29:**

Walker teaches that the patron has a player tracking account with the casino. (Fig 9) The player tracking points may be awarded to the patron anonymously, without

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crediting the player tracking account. (Col 8, 18-20)

**Claim 30:**

In one of Walker's embodiments, the player is awarded frequent flyer miles without reference to the player account. (Col 10, 23-33) The player merely informs the casino which frequent flyer account (as opposed to casino player tracking account) the frequent flyer miles should be assigned to. (Col 10, 31-33) Frequent flyer miles can be considered to be "comps".

**Claim 31:**

Walker teaches crediting the player tracking points stored on the loyalty program instrument to a player tracking account of the patron. (Col 12, 5-20 & 55-67)

**Claims 32 & 35:**

Walker teaches that the loyalty points are credited to the patron's player tracking account or redeemed for comps using a cashier station. (Col 3, 59-62)

**Claim 33:**

Walker teaches that the loyalty point instrument is a printed ticket. (Col 5, 28-32)

**Claim 34:**

Walker teaches that the loyalty point instrument is a printed ticket. (Col 5, 28-32)

**Claim 36:**

Walker teaches detecting a first game event initiated by the game player (a bet) and accruing loyalty points in response thereto. (Col 2, 63-65) Walker teaches determining a second gaming event such as the player placing a higher bet (column 4



lines 45-51). The system determines the total number of loyalty points that have accrued to the game player and issues the player a loyalty point instrument designed to store the awarded loyalty points. (Figs 10 a & b) The system issues loyalty points without receiving identification from the game player (column 8 lines 19-21). Walker teaches applying the system to gaming machines (see column 3 lines 50-53). Walker discloses awarding players without receiving identification information or account information - the player can be anonymous (see column 8 lines 19-21). Walker further discloses issuing to the patron a loyalty program instrument designed to store awarded loyalty points. Walker teaches that the loyalty point instrument is a printed ticket. (Col 5,28-32)

Walker does not teach the gaming, machine detecting that the patron has begun an activity for which player-tracking points accrue. This is a manual task left to the dealer. Walker discloses the dealer to be pressing buttons to award players with frequent flyer miles in response to player gaming. Pressing buttons is a manual activity (see column 4 lines 23-36). However, MPEP 2142 III provides that automation of a manual task is not sufficient to distinguish the prior art (MPEP 2142 III). It would therefore be obvious to automate the button pressing with means to automatically determine that a patron has begun an activity and the automatic accrual of points to standardize the awards for all players independent of the dealer. See also the rejections of Claim 15, 105 & 106, above.

**Claims 37 & 40:**

The loyalty program instrument is designed to store a validation number. This is information. (Fig 10b, 11,12)

**Claim 38:**

Walker teaches that the loyalty point instrument is a printed ticket. (Col 5, 28-32)

**Claim 39:**

Walker teaches that the first event is placing a wager. This is analogous to depositing indicia of credit into a gaming machine.

**Claim 41:**

Walker teaches that the loyalty point instrument is a printed ticket. (Col 5, 28-32). This is analogous to detecting a player request for a loyalty program instrument or detecting zero credits.

**Claim 44:**

Walker teaches displaying the amount of loyalty points to the game player. (Fig 10a, 1018)

**Claims 45 & 46:**

Walker teaches storing loyalty point transaction information on a memory device (416) located at the gaming table. The gaming table is analogous to the gaming machine. The device is on, but not inside the gaming table. (Fig 3)

**Claim 48:**

Walker's Fig 10a clearly discloses that game play sequences for one or more games may be presented between the first and second gaming events.

**Claim 49:**

Walker teaches that the player may receive player tracking points for playing "blackjack, craps, roulette, poker, and the like." (Col 3, 50-52) These are games of chance. The video versions of these games are notoriously well known.

**Claim 50:**

The rate at which the patron accrues loyalty points varies according to the amount wagered. (Col 4, 39-65)

**Claims 51, 52, 61 & 104:**

Fig 10a shows that the player tracking points begin accrued without receiving player tracking information or a player-tracking card from the player. This further teaches that a player does not initiate the player tracking.

**Claim 53:**

Walker teaches issuing a loyalty program instrument (i.e., a receipt). (Fig 10b, 1038) This is performing a loyalty program instrument transaction.

**Claim 55:**

Walker teaches that the accrued loyalty points are determined by a logic device (Fig 4, 410) located on the gaming table. This is analogous to being located on the gaming machine.

**Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Walker as applied to claim 22 above, and further in view of Boushy (US Patent**

**Number 5,761,647).**

**Claim 23:**

Walker teaches the invention substantially as claimed. Walker and Cumber do not teach communication between venues and the gaming establishment via the Internet.

Boushy teaches a national customer recognition system in which various gaming venues communicate with a gaming establishment via a Wide Area Network (102). The Internet is a well-known Wide Area Network. Linking several venues via a Wide Area Network allows players to accumulate points at affiliated casino properties. This encourages patrons to visit affiliated casinos as they travel about the world. This translates to higher profits within a family of casinos.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the invention suggested by Walker to include communication between venues and the gaming establishment via the Internet as suggested by Boushy in order to create a national customer recognition that allows players to accumulate points at affiliated casino properties thus encouraging patrons to visit affiliated casinos as they travel about the world and generating to higher profits within a family of casinos.

**Claim 47 is rejected under 35 U.S.C. 103(a) as being unpatentable over Walker as applied to claim 36 above, and further in view of Kelley (US Patent Number 5,816,918).**

**Claim 47:**

Walker teaches the invention substantially as claimed. Walker discloses comps may take many forms, but fails to teach the details of redeeming comps in forms other than as frequent flyer miles. Kelley teaches a prize redemption system that displays a prize menu including one or more prizes redeemable for an amount of loyalty points. (Fig 6, 334) The system then receives a prize selection selected from the prize menu. (336) If the patron has enough loyalty points for the selected prize, the system issues a loyalty program instrument used to redeem the selected prize. (337) It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the invention suggested by Walker to include a prize menu from which a player may choose a prize and issue a loyalty program instrument redeemable for that prize (providing the player has enough loyalty points to purchase the prize) as suggested by Kelly in order to implement Walker's disclosure that comps may be redeemed for a number of goods and services.

**Claims 42, 43, 54, 56 & 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker as applied to claim 36 above, and further in view of Bums et al. (US Patent Number 6,048,269).**

**Claim 42:**

Walker teaches the invention substantially as claimed. Walker teaches determining the amount of loyalty points stored on a first loyalty point instrument and validating the first loyalty point instrument. When the first loyalty point instrument has been validated, the loyalty points stored thereon are added to an amount of loyalty points awarded to the game player. (Fig 11) Walker, however, teaches that the

redemption/validation process occurs at a cashier station instead of at a gaming machine. Bums teaches reading tickets that are analogous to the loyalty point instrument at the gaming machine. This provides greater convenience to the player by allowing the player to redeem the loyalty point instruments at more locations.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the invention suggested by Walker to allow players to redeem/validate loyalty point instruments at a gaming machine as suggested by Bums in order to provide greater convenience to the player.

**Claim 43:**

Walker teaches the invention substantially as claimed. Walker, however, teaches the loyalty point instruments are input by the cashier. Bums teaches a ticket reader (206). Having a ticket reader handle the input instead of a cashier reduces costs to the casino because they do not have to have as many employees.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the invention suggested by Walker to have the loyalty point instrument input using a ticket reader as suggested by Bums in order to reduce the number of employees a casino needed, thus reducing costs.

**Claim 54:**

Walker teaches the invention substantially as claimed, but does not specifically teach redeeming the comps earned for plays on the gaming machine. Bums teaches redeeming free play tickets (Fig 3) for a particular game. (Col 5, 46-65) Free play on a

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gaming machine is often given as comps. This allows the casino to give the player a loyalty award that keeps the player gambling. This boosts casino profits.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the invention suggested by Walker allow the loyalty program instrument to be redeemed for play on a gaming machine as suggested by Bums in order to keep players gambling, thus increasing casino profits.

**Claim 56:**

Walker teaches the invention substantially as claimed, but do not teach configuring the game machines to communicate loyalty program information to a second gaming machine. Walker teaches issuing a ticket with loyalty program information (Col 5,28-32). Bums teaches that the tickets issued by a gaming machine can be used to communicate with other gaming machines. Allowing players to use tickets issued by one gaming machine on another gaming machine encourages a player to continue gambling.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the invention suggested by Walker by configuring the game machines to communicate loyalty program information to a second gaming machine as suggested by Bums in order to encourage the players to continue gambling, thus increasing casino profits.

**Claim 57:**

It is well known for players to play two different gaming machines simultaneously. Obviously, the player would accrue loyalty points on both machines. Walker teaches

issuing a single ticket representing the combined loyalty points awarded in a number of games. (Figs 10a & b) Walker also teaches that the player may receive a number of receipts, each representing an amount of loyalty points awarded. (Col 12, 15-20) Walker teaches communicating the number of loyalty points awarded to a central location (the cashier's terminal) where they are combined. (Figs 11 -12)

Walker teaches the invention substantially as claimed, but does not teach configuring the game machines to communicate loyalty program information to a second gaming machine or printing a combined loyalty program instrument from the second gaming machine. Walker teaches issuing a ticket with loyalty program information. Burns teaches that the tickets issued by a gaming machine can be used to communicate with other gaming machines. Allowing players to use tickets issued by one gaming machine on another gaming machine encourages a player to continue gambling. When the player is finished with the second gaming machine, it prints out a single consolidated ticket. This increases player convenience because the player only has to keep up with one ticket.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have configured the game machines to communicate loyalty program information to a second gaming machine in order to encourage the players to continue gambling, thus increasing casino profits. It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the invention suggested by Walker and to print out a single consolidated loyalty program instrument in order to



increased player convenience by reducing the number of tickers the player would have to keep up with.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Omkar A. Deodhar whose telephone number is 571-272-1647. The examiner can normally be reached on M-F: 8AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on 571-272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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